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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,851	12/17/2001	Shoji Oiso	576P043	8230

7590 04/26/2004
Kevin S Lemack
Niels & Lemack
176 E Main Street Suite 8
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EXAMINER

HON, SOW FUN

ART UNIT PAPER NUMBER

1772

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

Advisory Action	Application No. 10/018,851	Applicant(s) OISO ET AL.	
	Examiner Sow-Fun Hon	Art Unit 1772	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

- 1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
- 2. ☐ The proposed amendment(s) will not be entered because:
 - (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

- 3. ☐ Applicant's reply has overcome the following rejection(s): _____.
- 4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
- 5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment to advisory action.
- 6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
- 7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.
 Claim(s) objected to: None.
 Claim(s) rejected: 1-3.

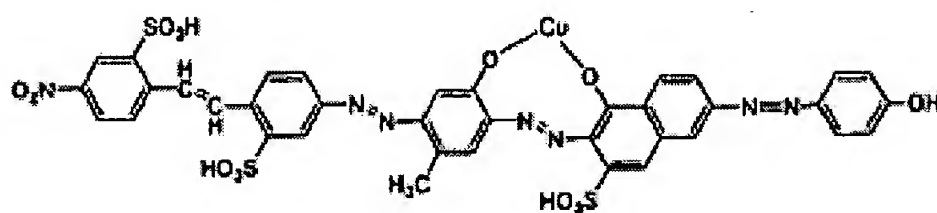
Claim(s) withdrawn from consideration: None.

- 8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
- 9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
- 10. ☒ Other: Attachment to advisory action

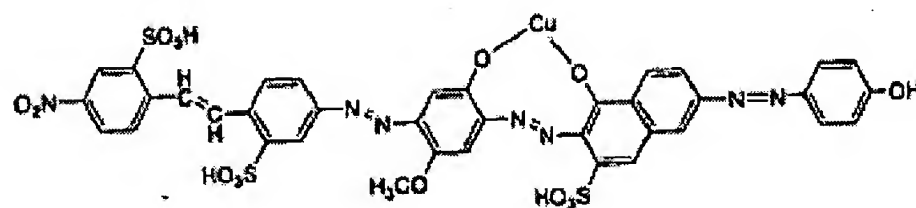
Art Unit: 1772

Advisory Action

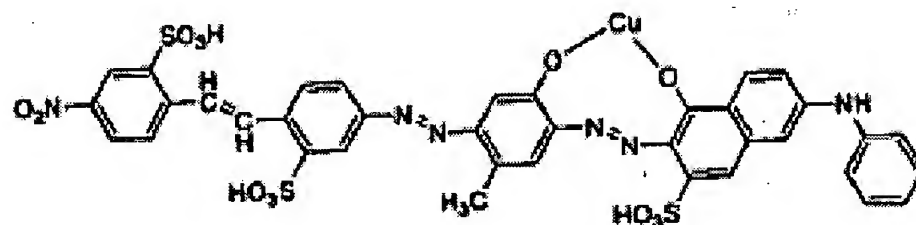
1. The affidavit accompanied by the request for reconsideration has been considered but does not place the application in condition for allowance for the reasons below.
2. The affidavit only uses two very similar compounds to demonstrate unexpected results, the difference being a CH_3 instead of a OCH_3 group in the same substituting position on the third benzylic ring from the left:



and

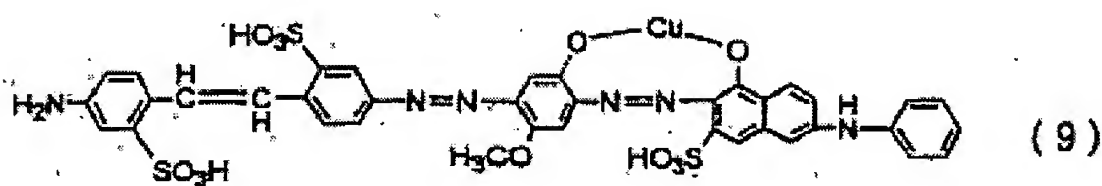
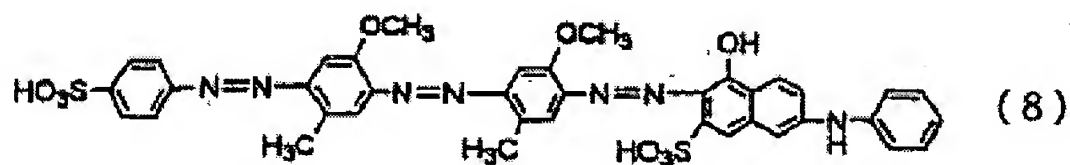


compared to this one compound taught by Misawa:



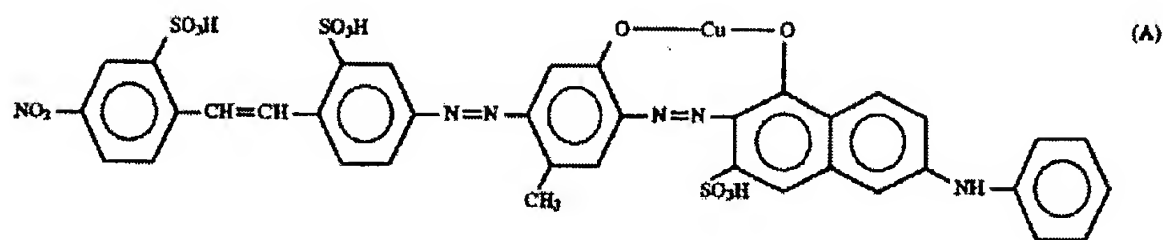
Art Unit: 1772

The present application presents two examples similar to compound A of Misawa et al. as part of the present application:



Thus it is unclear exactly which other compounds in the present claims demonstrate unexpected results over Misawa et al. The demonstration of unexpected results is therefore not commensurate with the scope of the claims.

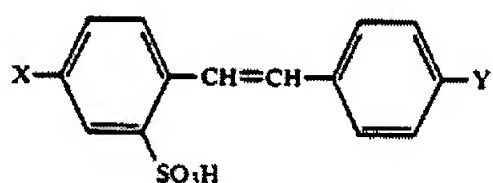
3. With respect to Applicant's argument that there is no motivation to combine Misawa et al. with Claussen et al. in that the compound A below is taught by Misawa et al. as an inferior compound from prior art:



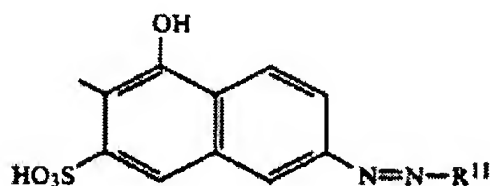
Applicant is respectfully reminded that although Misawa et al. demonstrates that the common dye of formula (A) has inferior polarity ('073, column 28, lines 1-5) compared with the azo dyes of Misawa et al, Misawa et al. does not teach that it cannot be modified. Claussen et al. is the secondary reference which teaches a polyvinyl alcohol type (or a copolymer) polarizing

Art Unit: 1772

film containing, in a substrate for the polarizing film, a water soluble dye in the form of a free acid (abstract) directed to produce a neutral color with uniform dichroism ('259, column 1, lines 50-55) with the following formula I ('259, column 2, lines 1-30) below:



wherein X, Y signify $-N=N-R$ and R can be the moiety below:



and wherein R^{11} is a substituted or unsubstituted phenyl radical ('259, column 3, lines 10-15).

Claussen et al. thus teaches the importance of the phenylazo radical in providing neutral color with uniform dichroism ('259, column 1, lines 50-55), and hence the motivation to substitute the phenylamino group in Misawa et al. with the phenylazo group of Claussen et al.

Any inquiry concerning this communication should be directed to Sow-Fun Hon whose telephone number is (571)272-1492. The examiner can normally be reached Monday to Friday from 10:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (571)272-1498. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

Application/Control Number: 10/018,851

Page 5


Art Unit: 1772

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sow-Fun Hon

04/14/04



HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

4/15/04